

**UNITED STATES DISTRICT COURT
District of Maine**

**AMERICAN AERIAL SERVICES,
INC.,**

Plaintiff,

v.

TEREX USA LLC, ET AL,

Defendants.

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No. 2:12-cv-00361-GZS

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on March 6, 2013, her Recommended Decision (ECF No. 21). Plaintiffs filed its Objection to the Recommended Decision (ECF No. 25) on March 28, 2013. Defendant Terex USA, LLC filed its Response to Plaintiff's Objection to the Recommended Decision (ECF No. 27) on April 10, 2013. Defendant The Empire Crane Company, LLC filed its Joinder in Defendant Terex's Response to Plaintiff's Objection to the Recommended Decision (ECF No. 29).

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.

2. It is hereby **ORDERED** that Defendants' Motions to Dismiss (ECF Nos. 13 and 15) are **GRANTED IN PART AND DENIED IN PART**.
3. For reasons stated in the Recommended Decision affirmed by this Court, it is hereby **ORDERED** that Counts II, IV & V are **DISMISSED WITHOUT OBJECTION**, Counts III & VII are **DISMISSED** over Plaintiff's Objections, and Counts VI & VIII are **DISMISSED WITHOUT PREJUDICE** to Plaintiff seeking to reinstate the claim by way of a properly amended complaint.

/s/ George Z. Singal
United States District Judge

Dated this 7th day of May, 2013.